

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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UNITED STATES OF AMERICA,

Plaintiff,

v.

NEW YORK CITY HOUSING AUTHORITY,

Defendant.
-----X

:
: 18 Civ. 5213 (WHP)
:

: ECF Case
:

: **NOTICE OF DISMISSAL**
: **WITHOUT PREJUDICE**
: **PURSUANT TO**
: **RULE 41(a)(1)(A)(i)**
:

WHEREAS, on June 11, 2018, plaintiff United States commenced this action against defendant New York City Housing Authority (“NYCHA”) pursuant to Section 6(j) of the U.S. Housing Act of 1937, 42 U.S.C. § 1437d(j), on behalf of the U.S. Department of Housing and Urban Development (“HUD”); pursuant to the Anti-Fraud Injunction Act, 18 U.S.C. § 1345; and pursuant to the Toxic Substances Control Act, 15 U.S.C. §§ 2616, 2689, on behalf of the U.S. Environmental Protection Agency (“EPA”);

WHEREAS, the complaint alleges, among other things, that NYCHA has failed to provide decent, safe and sanitary housing as required by HUD regulations; has failed to comply with HUD and EPA lead paint safety regulations; and has misled HUD regarding relevant matters;

WHEREAS, HUD, New York City, and NYCHA entered an agreement (the “Agreement.” attached hereto as Exhibit A), effective as of January 31, 2019, the purpose of which is to “to remedy the deficient physical conditions in NYCHA properties, ensure that NYCHA complies with its obligations under federal law, reform the management structure of

NYCHA, and facilitate cooperation and coordination between HUD, NYCHA, and the City during the term of [the] Agreement”;

WHEREAS, pursuant to the Agreement, among other things, NYCHA agrees that it will meet specified compliance requirements for lead paint and other health and safety issues; that it will establish a compliance department, an environmental health and safety department, and a quality assurance unit; that a monitor (the “Monitor”) will be appointed; and that the Monitor, HUD, EPA, and the U.S. Attorney’s Office will have certain oversight roles, all as specified in the Agreement;

WHEREAS, the Agreement provides that within 14 days of the appointment of the Monitor, this Office will file appropriate papers to obtain dismissal of this action without prejudice;

WHEREAS, in the Agreement, NYCHA agrees not to object to a motion to reinstate any count of the complaint in the event of breach of the Agreement by NYCHA;

WHEREAS, the Monitor was appointed on February 28, 2019;

WHEREAS, pursuant to Rule 41(a)(1)(A)(i), an action may be dismissed without prejudice by notice, without stipulation or order of Court, when the defendant has not yet answered the complaint nor served a motion for summary judgment;

WHEREAS, NYCHA has neither answered the complaint nor served a motion for summary judgment; and

WHEREAS, in light of the relief obtained in the Agreement, the United States wishes to dismiss the complaint without prejudice;

NOW, THEREFORE, PLEASE TAKE NOTICE that pursuant to Rule 41(a)(1)(A)(i):

1. The United States hereby dismisses the complaint in this action without prejudice.


Dated: March 14, 2019
New York, New York

GEOFFREY S. BERMAN
United States Attorney for the
Southern District of New York

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The Clerk of Court is directed to mark this case as closed.

SO ORDERED:



WILLIAM H. PAULEY III
U.S.D.J. 3/15/19